



PRICE-ANDERSON ACT: A MODEL TOWARDS HARMONIZATION OF EUROPEAN UNION CIVIL LIABILITY FOR NUCLEAR DAMAGE?

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International civil liability for nuclear damage is embodied by two major instruments: International Atomic Energy Agency (IAEA) 1963 Vienna Convention on Civil liability for Nuclear Damage and Convention on Third Party Liability in the Field of Nuclear Energy of 1960 (OECD) with its amending protocols. Major problem arises because of lack of coherence among contracting parties and for this reason supplementary conventions and protocols has been adopted but sufficient results has not been achieved. After Fukushima accident harmonization of liability regimes remains essential in the European Union. Paradox remains with third party nuclear liability rules whereas nuclear states follow the principles of channelling, limited liability of the operator and exclusive jurisdiction of the courts on contrary non-nuclear states adhere to different principles due to international law. The co-existence of heterogeneous compensation systems shows the need for legal framework harmonization at European Union or even global level. Civil liability for nuclear damage in the USA is regulated by the Price-Anderson Act which is being regularly revised. This model provides extraordinary nuclear occurrence which prevents nuclear installation operator from tort law defences however it creates strict liability for nuclear operators in case of a nuclear accident thus provides economic channelling instead of legal channelling. This paper analyses Price-Anderson model compensation system and its possible adjustments to European Union civil liability for nuclear damage framework.

Purpose – analyze the Price-Anderson model compensation system in the light of European Union civil liability for nuclear damage framework harmonization;



Design/methodology/approach – paper is based on document analysis, systemic, comparative analysis method by comparing different legal acts and its implications;

Findings – International liability regime does not provide harmonized and sufficient compensation approach. Despite the fact that conventions were adjusted to changing circumstances not all amendments are in force. USA provides rather different compensation and liability system which might serve as a background framework towards harmonization process in the European Union. Compensation is based on two tier system whereas all operators are implied to provide financial coverage and insurance. Only in the event of accident all nuclear operators are obliged to input certain proportionate amount into insurance pool. International liability system does not provide economic channeling model rather legal channeling when liability is strictly imposed to operator although not only the operator but e.g. technology provider is involved in nuclear industry.

Research limitations/implications – analyze USA civil liability and insurance for nuclear damage model by comparing it to international framework thus providing possible background for harmonization of liability rules towards European Union;

Practical implications – This comparative analysis provides a background on further discussions concerning the nuclear operator's liability and insurance limits issues and cohesion between two regimes by providing a harmonized model throughout European Union;

Originality/Value – Only a few authors have analyzed some aspects of nuclear liability. There is still a lack of academic comprehension of nuclear liability regimes and insurance issues in the light of harmonization at European Union level. This work provides insights into nuclear liability and compensation issues and will certainly be valuable in practice when improving legislative framework and developing nuclear projects;

Keywords: Price-Anderson Act, Nuclear damage, Vienna Convention, Paris Convention, nuclear insurance pool, strict liability, economic channelling, legal channelling;

Research type: research paper.